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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

GENERAL COUNSEL

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MEMORANDUM FOR: Wolf Haber, Treasury
Mark R. Feldman, State
John Warner, Central Intelligence Agency ✓
Martin R. Hoffman, Defense
Antonin Scalia, Justice
James Frey, Office of Management and Budget
Gerald P. Dargis, National Security Council
William L. Brown, Interagency Classification
Review Committee

Enclosed is a working draft of a bill regarding the classification of documents in the interest of national defense or foreign policy. The draft was informally submitted to us from the Hill for our comments.

I am submitting a copy to you for your comments concerning direction, thrust, etc. Any movement in this area would, of course, significantly impact the Freedom of Information Act and the Privacy Act of 1974. After you have had an opportunity to review this draft, let me know your comments.

William M. Nichols
William M. Nichols
Acting General Counsel

Enclosure

A B I L L

To amend title 5, United States Code, by adding a section 552b to provide for the classification and declassification of official information in the interest of national defense, to regulate the use of classification authority be Federal agencies, to establish an independent Classification Review Commission within the Executive branch, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States in Congress assembled,
That this Act may be cited as the "Security Classification Act of 1975".

Sec. 2. The Congress finds that --

(1) the interests of the United States and its citizens are best served by the widest possible public dissemination of information concerning the affairs of government;

(2) some types of information collected, used, and disseminated by Federal agencies is of a sensitive nature,

bearing on the conduct of our national defense and foreign policy and related areas, and must be subject to clearly defined and regulated constraints in order to protect the overall security of the nation and our people;

(3) in all too many instances classification authority conferred upon Executive agencies and thousands of their employees under various Executive orders in effect over the past 25 years has been flagrantly misused and abused, has failed to meet the standards of an open and democratic society, has allowed too many government documents to remain classified for too long a time, has failed to provide adequate administrative machinery to make the classification system workable and effective, and has frequently served to conceal bureaucratic mistakes, illegal activities, or to prevent embarrassment to government officials and administrations, thereby undermining to a dangerous extent the overall integrity and security of the classification system

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and the protectio. of truly vital defense s~~ec~~rets;

(4) classification authority in the past, under the Executive order system, has been too widely conferred upon too many Federal agencies not having clearly demonstrable needs for such authority, which have delegated such authority to far too many agency employees, thereby resulting in ever-proliferating volumes of agency documents bearing unnecessary markings and creating an administrative monstrosity;

(5) unnecessary classification or overclassification of government documents are the inherent results of the massive bureaucracy spawned by the Executive order classification system, unable or unwilling to impose strict disciplinary controls over the misuse or abuse of classification authority;

(6) vast amounts of less sensitive, routinely classified information remain in a classified status for inordinately long periods of time under the Executive order sytem because of the lack of workable administrative mechanisms to assure

a clear determination of the absolute need for the continued protection
of ~~information~~ such portions of classified/as would truly serve our
national security interests;

(7) it is essential that the inadequate and inefficient Executive
order classification system be replaced by a workable, efficient, and
enforceable statutory classification system to provide adequate safe-
guards against the compromise of our nation's vital defense secrets,
while at the same time upholding to the maximum extent possible the
right of the American public to know how the affairs of government
are being conducted; and

(8) that pursuant to such a policy, the statutory classification
system must provide for workable administrative machinery in the con-
duct of classification decision making, for an independent mechanism
for reviewing and policing all aspects of the classification program
in each agency having classification authority, for full access to
classified information by committees of the Congress whenever such

information is necessary to their investigative or legislative functions,
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and for judicial review by the Federal courts in cases involving disputes over the proper use of classification authority authorized by the classification statute.

Sec. 3. Title 5, United States Code, is amended by adding after section 552a the following new section:

" § 552b. Classification and declassification of official information.

"(a) DEFINITIONS.-- For purposes of this section --

"(1) the term 'agency' means any agency as defined in section 552(e) of this title that has been authorized to exercise classification authority under this section;

"(2) the term 'classification authority' means the specific duties and responsibilities conferred upon a Federal agency by this section to apply authorized markings on official information to safeguard such information from unauthorized persons, to downgrade such markings on such official information, to remove such designations and declassify such official information and to

perform other related types of duties in accordance with the

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authorized in this section;

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(3) the term 'official information' means any agency document, map, tape, plan, chart, design, model, report, or other printed matter, or any type of weapon, weapons system, military hardware, or similar equipment that may be subject to classification markings to protect its unauthorized use by any agency pursuant to the authority provided in this section;

"(4) the term 'classification marking' means the various levels of limitation placed on access, control, use, or dissemination of official information by those authorized agency officials under the specific criteria hereinafter described in this section;

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"(b) CLASSIFICATION MARKINGS.--No agency, as defined in section 552(e) of this title, is authorized to exercise classification authority except as provided for in this section. Agencies authorized by this section to exercise classification authority may delegate to certain of its officers and employees authority to apply original classification markings to official information as follows --

"(1) Top Secret;

"(2) Secret; or

"(3) Confidential.

"(c) AUTHORITY TO CLASSIFY.--

"(1) Official information may be originally classified as Top Secret by the following agencies -- the Department of State, the Department of Defense, the Department of the Army, the Department of the Navy, the Department of the Air Force, the Department of the Treasury, the Central Intelligence Agency, the Atomic Energy Commission, the United States Arms Control and Disarmament Agency, and by such offices within the Executive Office of the President as the President may designate by Executive order.

"(2) Official information may be originally classified as
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Secret by any agency which may originally classify official information as Top Secret and by the Department of Justice, the Department of Commerce, the Department of Transportation, and the National Aeronautics and Space Administration.

"(3) Official information may be originally classified as Confidential by any agency which may originally classify official information as Top Secret or Secret and by the

"(4) Within the agencies described in this subsection, the classification of official information may only be done by the head of each such agency, and such other senior principal deputies, assistants, and subordinate officials within each such agency who are designated in writing by the head of each such agency, provided, however, that subordinate supervisory officials below the level of section chief or its equivalent may not be designated to classify

such individual may be designated to classify official information unless his day-to-day operational responsibilities make it imperative that he have such authority. The head of each such agency shall semiannually review each individual whom he has designated in writing as having authority to classify official information in order to take away such authority from any individual whose daily operational responsibilities no longer make it imperative that he have such authority.

"(A) Individuals who are designated in writing by the head of an agency pursuant to this subsection as having authority to classify official information may not redelegate such authority to any other individual.

"(B) Except as otherwise provided by statute, the head of each agency described in this subsection shall compile and maintain a full and complete list of names, titles, and office addresses of all individuals within such agency who have the authority to classify official information as Top Secret, Secret, or Confidential, including a breakdown identifying individuals who have the authority to classify official information

Commission. A copy of each such list shall also be made available, upon request to the appropriate agency head by any committee, subcommittee, or joint committee of the Congress or by the Comptroller General of the United States, to such committee, subcommittee, joint committee or the Comptroller General.

"(C) Each individual who has the authority pursuant to this subsection to classify official information as Top Secret, Secret, or Confidential shall, in the exercise of such authority with respect to each item of official information, affix to the cover or top page of each such item the category of classification assigned to it, his name, title, including agency designation, the date, and the automatic declassification date or event, if possible, that would cause such classified information to no longer require such level of protection.

"(D) Each individual who has the authority pursuant to this subsection to classify official information as Top Secret, Secret, or Confidential shall be held accountable, under regulations

promulgated by the agency and approved by the Classification Review Commission, for his failure to accurately classify such information.

"(E) Such individuals shall not classify official information in order to conceal administrative error, incompetence, inefficiency, wrongdoing, to avoid embarrassment to any individual or agency, to restrain competition or independent initiative, or to prevent or delay for any reason the release of official information otherwise required under sections 552, 552a, or 552b of this title.

"(F) Any agency officer or employee who, in the routine course of his assigned duties, uses, reproduces, or otherwise handles any classified information need not have authority to classify official information pursuant to the provisions of this subsection in order to place identification markings on material containing any such classified information to indicate its category of classification.

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"(G) Any such individual who classifies official information

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in violation of the provisions of this subsection shall be subject

to administrative reprimand, including suspension or such other
disciplinary action as shall be determined by regulations promulgated
by the agency and approved by the Classification Review Commission.

"(d) CRITERIA FOR CLASSIFICATION MARKINGS.--The use of classification authority with respect to official information, as authorized in subsection (c) of this section, shall be strictly limited by the various criteria applied to the designations Top Secret, Secret, and Confidential as described in this subsection.

"(1) Official information may only be marked as Top Secret whenever any of the following criteria are deemed to clearly apply to such information by the individual exercising classification authority --

"(A) it contains specific details of an advanced weapons system not yet deployed, including its design, technical or operational characteristics or performance, manufacturing data, or similar information; or

against another country or for our own national defense; or

"(C) it contains specific details of a cryptographic system of the United States or of another country, such as manufacturing data, operational characteristics or performance, use, or similar communications intelligence information; or

"(D) it contains specific details concerning foreign intelligence gathering operations of the United States, including satellite reconnaissance or photography, communications interception involving other countries, intelligence sources or methods, including the identity of persons engaged in covert activities abroad on behalf of the United States; or

"(E) it contains specific details of a current negotiating position of the United States or another country in our diplomatic relations; or

"(F) it contains information required by other statutes to be protected, including information marked as 'Restricted Data' under the provisions of section of title , United States Code.

Whenever any of the following criteria are deemed to clearly apply to such information by the individual exercising classification authority --

"(A) it contains specific details of a weapons system currently deployed and which has not fallen into the hands of a potential enemy or otherwise compromised, including its design, technical or operational characteristics, manufacturing data, or similar information; or

"(B) it contains specific details of a tactical operational plan of a limited scale for a military operation by the United States against another country, including unit, troop, and weapons deployment, logistical support, and similar information; or

"(C) it contains specific details resulting from investigative activities by an agency concerning the military, intelligence gathering, communications capabilities, or similar operations of the United States

or other countries in which we are engaged in limited joint military operations; or

"(D) it contains specific details relating to current operational objectives involved in the conduct of our foreign policy with another country, including highly sensitive information about officials of such foreign governments.

"(3) Official information may only be marked as Confidential whenever any of the following criteria are deemed to clearly apply to such information by the individual exercising classification authority --

"(A) it contains specific details involving research and/or development of an advanced weapons system, including its projected operational characteristics, plans, manufacturing data or test results, or similar information; or

"(B) it contains specific details of the results of a tactical military operation legally authorized by

the United States against another country, including

deployment of our forces, bases, damage reports, debriefing information, losses of personnel and equipment, weapons performance data, and similar information, the disclosure of which would be of military value to such other country or its allies; or

"(C) it contains specific details relating to elements of United States policy, strategy, or diplomatic objectives with another country, the disclosure of which would seriously damage our current diplomatic relations with such country.

"(4) Official information furnished to the United States by a foreign government, by an international organization, or received by an agency as part of its intelligence gathering authority may be marked by the authorized individual of the receiving agency as Top Secret, Secret, or Confidential, depending upon its category of classification by such foreign

government or international organization, or in the case of information obtained by an agency through its intelligence gathering activities, depending on the sensitivity of such information as based on the criteria authorized by this subsection.

"(e) DOWNGRADING AND DECLASSIFICATION OF OFFICIAL INFORMATION.

"(1) Except for official information classified as Top Secret and described in paragraph (8) of this subsection, any official information which is classified on or after the effective date of this section pursuant to the criteria described in subsection (c) as Top Secret, Secret, or Confidential shall be promptly downgraded to an appropriate less stringent category or declassified, as the case may be, ^{by} an individual within the agency concerned who has authority to classify such information or by such other official as the head of the agency may designate to exercise such downgrading or declassification authority, according to the provisions of paragraphs (2), (3), (4) and (5) of this subsection.

"(2) Official information classified as Top Secret

shall be automatically downgraded to Secret not later than twelve months after the date of its original classification as Top Secret, automatically downgraded to Confidential not later than twenty-four months after the date of its original classification as Top Secret, and automatically declassified not later than thirty-six months after the date of its original classification as Top Secret.

"(3) Official information classified as Secret shall be automatically downgraded to Confidential not later than twelve months after the date of its original classification as Secret, and automatically declassified not later than twenty-four months after the date of its original classification as Secret.

"(4) Official information classified as Confidential shall be automatically declassified not later than twelve months after its original classification as Confidential.

"(5) In the downgrading and declassification of official

information, as provided in this subsection, the time periods described for each category of classification shall be reduced whenever the authorized individual within the agency concerned determines that the impact of national or international events, policy changes, ~~on~~ the advance of technological developments, or similar situation factors makes it clear that a particular level of classification protection or any classification protection at all, as the case may be, is no longer required with respect to that particular information.

"(6) Except for official information classified as Top Secret and described in paragraph (8) of this subsection, any official information which was originally classified prior to the fifteen-year period immediately preceding the effective date of this section pursuant to any Executive order, directive, memoranda, or other authority and which is classified as Top Secret, Secret, or Confidential on such effective date shall be automatically declassified within twelve months after the effective ^{date} of this section by the head of the agency concerned or by such subordinate official as he may designate.

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"(7) Except for official information classified as Top Secret and described in paragraph (8) of this subsection, any official information which was originally classified during the fifteen-year period immediately preceding the effective date of this section pursuant to any Executive order and which is classified as Top Secret, Secret, or Confidential on such effective date shall be automatically downgraded or declassified, as the case may be, according to the provisions of paragraphs (2), (3), (4), and (5) of this subsection.

"(8) Official information which is classified pursuant to the criteria described in subsection (c) as Top Secret on or after the effective date of this section, or which was so classified pursuant to the authority of any Executive order, directive, memoranda, or other authority prior to such effective date shall be automatically downgraded to a less stringent category or declassified only in accordance with the procedures described in paragraph (5) and (9) of this subsection, provided however, that the individual exercising

concerned agency makes a written determination that the
affected information clearly meets any of the tests described
in the following criteria --

"(A) it contains specific details of a national
defense or contingency plan, weapons system, or related
defense matter the continuing protection of which is of
vital importance to the United States, the unauthorized
disclosure of which would imperil the defense of our
nation and the lives of our people; or

"(B) it contains information the unauthorized dis-
closure of which would compromise a cryptographic or
communications intelligence system vital to our national
defense; or

"(C) it contains information the unauthorized dis-
closure of which would compromise a current intelligence
gathering operation or jeopardize the life of an agent
or source in a foreign country engaged in covert activities

vital our national defense; or

"(D) it contains information that is specifically exempted from disclosure by another statute.

"(9) Whenever a determination is made pursuant to the provisions of paragraph (8) of this subsection that official information meets the criteria described so that it is not subjected to the regular automatic downgrading or declassification procedures of paragraphs (2), (3), or (4) of this subsection, nor does it qualify for downgrading or declassification action under paragraph (5) of this subsection, the head of the agency concerned with the particular official information involved in each such determination shall --

"(A) immediately report the results of such determination and the specific criteria that has been applied in such case to the Chairman of the Classification Review Commission, hereinafter established in subsection (g) of this section; and

"(B) upon formal written request by the Chairman of the Classification Review Commission, he shall make available to the Commission a copy of the written determination of the individual within the agency justifying the application of any of the criteria to the particular information; and

"(C) designate an agency official to appear before the Commission whenever, by a majority vote of its members the Commission decides to hold a hearing to obtain additional information from the agency to justify its determination in such case.

If the Commission, by a two-thirds vote of its membership, rules that the justification provided by the agency at its hearing does not support the agency determination in such case it may issue an order denying such official information the exemption from routine downgrading and declassification actions provided in this subsection and such order shall be effective within five working days following the date of the Commission's

order, unless appealed by the agency as provided for in subsection (h)(5) of this section.

"(10) Downgrading and declassification of official information shall be accomplished by the prompt issuance of an official announcement by the agency concerned, including the date of such action, the agency official involved, and a description or other identification of the information affected, authenticating the downgrading or declassification, as the case may be, to be transmitted to all known holders of copies of the affected information.

"(11) Any holders of copies of the classified official information, when notified by the agency concerned of its downgrading or declassification, as the case may be, shall, upon receipt of such notification from the agency, promptly note on its copy the new classification level on any downgraded item, the date, name and agency official authorizing such action, and, in the case of declassification action by the agency, the identical data, and shall promptly remove

such declassified item from existing security protection measures in effect.

"(12) In cases where classified official information --

"(A) is held by an agency originally exercising classification authority, but which no longer has such authority or which has ceased to exist; or

"(B) has been transferred to a successor agency or another agency originally sharing a classification interest in the official information; or

"(C) has been transferred to the General Services Administration in order to be placed in the Archives of the United States or in a presidential library, the current agency holder of the official information shall promulgate regulations, with the approval of the Classification Review Commission, to designate an agency official who shall have the authority to downgrade such information to a less stringent category and/or to declassify it.

(f) ACCESS, STORAGE, HANDLING, AND USE OF OFFICIAL INFORMATION -

(1) Each agency having classification authority shall promulgate regulations, under standards and procedures prescribed by the Classification Review Commission as authorized by subsection (g)(5)(B) of this section, to assure the proper access, adequate safeguards, efficient handling, use, storage, and accountability of official information classified pursuant to the authority of this section.

(g) CLASSIFICATION REVIEW COMMISSION. --

(1) There is established a commission to be known as the Classification Review Commission (referred to in this section as the 'Commission').

"(2)(A) The Commission shall be composed of nine members who shall be appointed by the President by and with the advice and consent of the Senate. Of the nine members --

"(i) three shall be chosen from among individual recommended by the Speaker of the House of Representatives; and

"(ii) three shall be chosen from among individua

recommended by the President pro tempore of the Senate.

Of the three members appointed under clause (i) of this subparagraph, not more than two shall be affiliated with the same political party. Of the three members appointed under clause (ii) of this subparagraph, not more than two shall be affiliated with the same political party. Of the three members appointed by the President, not more than two shall be affiliated with the same political party. A vacancy in the Commission shall be filled in the manner in which the original appointment was made. All members of the Commission must be citizens of the United States.

"(B)(i) Of the members first appointed --

"(1) one recommended by the Speaker of the House, one recommended by the President pro tempore of the Senate, and one chosen by the President shall be appointed for a term of three years;

"(II) one recommended by the Speaker of the House, one recommended by the President pro tempore of the Senate, and one chosen by the President shall be appointed for a term of five years; and

"(III) one recommended by the Speaker of the House, one recommended by the President pro tempore of the Senate, and one chosen by the President shall be appointed for a term of seven years.

"(ii) Any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may not serve more than one term on the Commission, except that a member may serve after the expiration of this term until his successor has taken office.

"(C) No member of the Commission shall actively engage in any business, vocation, or employment other than that of serving as a member of the Commission.

"(3)(A) The Commission shall elect a Chairman and a Vice Chairman from among its members for a term of two years. The Chairman and the Vice Chairman shall not be affiliated with the same political party. The Vice Chairman shall act as Chairman in the absence or disability of the Chairman, or in the event of a vacancy in that office.

"(B) A vacancy in the Commission shall not impair the right of the remaining members to exercise all the powers of the Commission and six members thereof shall constitute a quorum. The Commission shall meet at the call of the Chairman or any six of its members.

"(C) The Commission shall have an official seal which shall be judicially noticed.

"(D) The principal office of the Commission shall be in or near the District of Columbia.

"(4)(A) Members of the Commission (including the Chairman and Vice Chairman) shall each be paid at the annual rate of basic pay in effect for level II of the Executive Schedule of section 5315 of title 5, United States Code.

(B)(i) The Commission shall appoint an Executive Secretary, who shall be paid at a rate not to exceed the rate of basic pay in effect for level IV of the Executive Schedule of section 5315 of title 5, United States Code. He shall serve at the pleasure of the Commission and shall be responsible for the administrative operations of the Commission. He shall also perform such other duties as may be delegated or assigned to him from time to time by regulations or orders of the Commission.

"(ii) The Commission shall appoint a General Counsel who shall be the chief legal officer of the Commission and who shall serve at the pleasure of the Commission. The Commission shall also appoint and fix the compensation of such additional personnel as may be necessary to fulfill the duties of the Commission in accordance with the provisions of title 5, United States Code. The Commission may also obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

in the same manner and upon the same conditions as other agencies.

"(D) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

"(5)(A) The Commission shall prescribe standards and procedures as it considers necessary or appropriate to assist agencies in the development of regulations to effectuate the provisions of this section.

"(B) The Commission shall also prescribe standards and procedures to assist agencies in the development of regulations concerning the handling of official information which is classified in the interest of national defense which shall be applied uniformly by the agencies concerned (including the Commission) and shall include, but not be limited to, the following --

"(i) assuring that (1) knowledge and possession of such information shall be limited to individuals who are trustworthy and whose official duties require such knowledge or possession in the interest of promoting national defense, that (2) the term 'official duties' shall include functions or services of persons performed in the accomplishment of official programs or projects or other official tasks regardless of whether they are officers or employees of the United States, and that (3) no individual may withhold or authorize withholding such information from Congress;

"(ii) assuring that such information shall be appropriately and conspicuously marked or otherwise identified in order to show its category of classification;

"(iii) assuring that such information shall be marked in order to identify the agency which classified it, the date of its preparation and classification (including the date of its subsequent downgrading and

declassification), and the name and title of the highest ranking person authorizing its classification (and subsequent downgrading and declassification);

"(iv) assuring that such information is appropriately protected against dissemination to or access by unauthorized persons during use, transmission, storage and destruction; and

"(v) assuring that appropriate accountability records shall be established and maintained with respect to such information.

"(6)(A) The Commission may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable. The Commission may administer oaths or affirmations to witnesses appearing before it.

"(B) The Commission may secure directly from any agency information necessary to enable it to carry out its

Vice Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

"(C)(i) The Commission shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of any evidence that relates to any matter under investigation by the Commission. Such attendance of witnesses and the production of such evidence may be required from any place within the United States at any designated place of hearing within the United States.

"(ii) If a person issued a subpoena under clause (i) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Commission) order such person to appear before the Commission to produce evidence or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(iii) The subpoenas of the Commission shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(iv) All process of any court to which application may be made under this section may be served in the judicial district wherein the person required to be served resides or may be found.

"(D) The Commission shall carry out its functions with respect to the downgrading and declassification of official information as described in subsection (e).

"(E) The Commission may issue decisions, orders, and directives, and distribute reports, administrative memorandums, and other information in order to assure that the provisions of this section are carried out.

"(F) The Commission shall publish annual reports of its activities and shall make available for public inspection at reasonable times in its office a record of its proceedings and hearings. However, the Commission shall not

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make public a classified information prior to its declassification.

"(G) The Commission shall conduct a thorough and continuing investigation and appraisal of the policies, standards, and operations of agencies classifying information, in the interest of national defense, under the provisions of this section.

"(H) The Commission shall, as soon as practicable, undertake a comprehensive study of the feasibility of utilizing advanced automated data processing methods and other advanced information systems technology in the classification and declassification fields, including indexing and retrieval systems to expedite automatic downgrading and declassification procedures, while assuring that such systems development provide for adequate technological security to maintain the necessary level of protection to classified official information stored in such systems.

"(I) The Commission shall investigate, upon the

vote of at least three of its members, inquiries initiated by private citizens, officers, or employees of the United States, or any other person concerning any allegation of improper classification of official information within the purview of this section, or concerning any allegation of the failure of any agency, or of any officer or employee thereof to comply with the provisions of this section, or any agency regulation, or decisions, orders, or directives of the Commission pursuant to this section. The Commission shall have a report published which describes the results of each such investigation. The Commission shall, when appropriate, refer such matters to the Attorney General of the United States, provided, however, that nothing in this paragraph shall be construed as granting the Commission authority to inhibit, threaten, or abridge the rights of any person under the First amendment to the United States Constitution.

"(J) The Commission shall furnish to Congress, committees of Congress, and the Comptroller General of the

United States, upon request, certain classified information necessary for Congress to discharge fully and properly all of its constitutional responsibilities.

"(h) ADJUDICATORY AND APPEAL PROCEDURES. --

"(1) In any case within the purview of subsection (e)(9) of this section, the Commission shall hold a hearing at which the concerned agency is entitled to present its case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

"(2) The Commission shall meet immediately after the conclusion of the hearing to begin deliberations. The Commission shall render its decision in writing within five calendar working days after the conclusion of the hearing. Such decision shall set forth in detail the reasons for the determination of the Commission.

"(3) In carrying out its responsibilities under the provisions of subsection (e)(9) of this section, the Commission

is authorized to enter an order in each case either granting or denying the agency exemption, in whole or in part, from routine downgrading and declassification actions.

"(4)(4) The Commission shall prescribe such terms and conditions as it deems necessary to protect the security of the information concerned, including but not limited to, requiring that the person requesting such information or his agent --

"(i) take adequate measures to guard the physical security of the information received; and

"(ii) assure that access to the information be limited to Members of Congress whose responsibilities require access to such information, or to appropriate staff members of either House of Congress, or of any committee, subcommittee, or joint committee of Congress, or to the Comptroller General of the United States or any employee of the General Accounting Office who possesses proper security clearance.

"(5)(A) There is vested in the United States Court of Appeals for the District of Columbia exclusive original jurisdiction to review any final decision of the Commission under paragraph (3) upon complaint filed by a party to the proceeding at which such decision was made within fifteen calendar days of the date of such decision by the Commission. The decision of the Commission shall be upheld if there is substantial evidence on the record to sustain that decision. Such case shall be immediately considered and shall have precedence over all other cases pending before such court.

"(B) There is vested appellate jurisdiction in the Supreme Court of the United States to review by appeal as a matter of right any decision made by the United States Court of Appeals for the District of Columbia pursuant to this paragraph. The Supreme Court shall act promptly in considering such appeal and rendering its judgment thereon.

"(C) The judicial review provided for by this paragraph shall be the exclusive mode of judicial review."

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SEC. 4. It is the sense of the Congress that the President, in conformity with article II, section 3, and article I, section 8 of the Constitution of the United States, shall keep Congress fully and currently informed with respect to all of the activities of agencies covered under this Act.

SEC. 5. Section 552(b)(1) of title 5, United States Code, is amended to read as follows:

"(1)(A) specifically authorized under criteria established by an Executive order or statute to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order or statute;"

SEC. 6. The chapter analysis of chapter 5 of title 5, United States Code, is amended by inserting:

"552b Classification and declassification of official information."

immediately below:

"552a Records about individuals."

SEC. 7. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

SEC. 8. The provisions of this Act shall be effective 180 days following the day on which this Act is enacted, except for the provisions of subsection (g), which shall be effective on and after the date of enactment.